

Assembly Bill No. 2167

CHAPTER 251

An act to add Article 2.5 (commencing with Section 81436) to Chapter 4 of Division 31 of the Water Code, relating to water.

[Approved by Governor September 7, 2012. Filed with
Secretary of State September 7, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2167, Hill. Bay Area Water Supply and Conservation Agency: financial matters.

Under existing law, the City and County of San Francisco operates the Hetch Hetchy Project as a regional water delivery system, supplying water to persons and entities in San Francisco and the Counties of Alameda, San Mateo, and Santa Clara. Existing law, the Bay Area Water Supply and Conservation Agency Act, governs the formation and operation of the Bay Area Water Supply and Conservation Agency (BAWSCA) by 24 public entities that purchase water from San Francisco. The act authorizes the agency to borrow money, incur indebtedness, and issue notes and bonds, including revenue bonds, as specified. The act authorizes the agency to make proceeds of bonds authorized by the act available to other local public agencies on mutually satisfactory terms and conditions to assist in the construction, reconstruction, or improvement of works designed and intended in whole or in part to furnish water to the members of the agency, whether those works are carried out jointly by the agency and other local public agencies, or solely by those other public agencies. The act further authorizes the agency to impose reasonable rates, fees, and charges on specified entities that are sufficient to generate revenue to pay the principal and interest on any bonds issued by the agency.

This bill would authorize the agency to prepay the unpaid principal balance relating to existing capital assets as of June 30, 2009, on behalf of BAWSCA members, as defined, as provided in a prescribed water supply agreement. This bill would authorize the agency to acquire from the City and County of San Francisco the right to receive all or a portion of the amounts payable by BAWSCA members under that water supply agreement and authorize the City and County of San Francisco to sell to the agency its right to receive these amounts. This bill would authorize the agency to request that the City and County of San Francisco continue to collect amounts in accordance with the water supply agreement and to transfer these amounts to the agency on a periodic basis. This bill would require the agency to use these amounts to pay debt service on prescribed bonds issued by the agency for specified uses authorized by this bill and to satisfy all other obligations of the agency related to those bonds. This bill would also authorize the agency to impose

rates, fees, and charges as prescribed to pay debt service on bonds issued for the specified uses authorized by this bill and to satisfy all other obligations of the agency related to those bonds and would require that the City and County of San Francisco collect any of those rates, fees, and charges, as specified, if requested by the agency. This bill would also permit the agency to distribute any of these amounts not needed for the purposes of those bonds to BAWSCA members, as prescribed.

The people of the State of California do enact as follows:

SECTION 1. Article 2.5 (commencing with Section 81436) is added to Chapter 4 of Division 31 of the Water Code, to read:

Article 2.5. Additional Financing Authority

81436. For the purposes of this article, the following definitions shall apply:

(a) “BAWSCA members” means Stanford University, the California Water Service Company, and eligible public entities as defined by Section 81305.

(b) “July 2009 Water Supply Agreement” means the water supply agreement by and between the City and County of San Francisco and the BAWSCA members, as amended or supplemented.

81436.5. The agency may prepay all or a portion of any unpaid principal balance relating to the existing capital assets as of June 30, 2009, on behalf of BAWSCA members, as provided in the July 2009 Water Supply Agreement.

81437. (a) (1) The agency may acquire from the City and County of San Francisco the right to receive all or a portion of the amounts payable by BAWSCA members under the July 2009 Water Supply Agreement.

(2) The City and County of San Francisco may sell to the agency its right to receive amounts payable by BAWSCA members under the July 2009 Water Supply Agreement.

(b) (1) If the agency acquires, and the City and County of San Francisco sells, the right to receive amounts payable pursuant to subdivision (a), if requested by the agency, the City and County of San Francisco shall continue to collect amounts payable by BAWSCA members under the July 2009 Water Supply Agreement in accordance with the terms of that agreement and the City and County of San Francisco shall transfer amounts so collected to the agency on a monthly basis or on a periodic basis agreed to by the agency and the City and County of San Francisco.

(2) The agency shall apply amounts received pursuant to this subdivision to pay debt service on any bonds issued by the agency for a use authorized by Section 81437.5 and to satisfy all other obligations of the agency related to these bonds.

(3) The agency may distribute any amounts received pursuant to this subdivision not needed for the purposes of this subdivision to BAWSCA members. The agency may condition any distribution pursuant to this paragraph upon BAWSCA members' agreement to waive any right of prepayment respecting any amounts purchased that the member may have under the July 2009 Water Supply Agreement.

81437.5. In addition to the uses authorized in Section 81434, the agency may use proceeds of bonds issued pursuant to this division as follows:

(a) For the construction, reconstruction, or improvement of any works carried out by the agency on behalf of a BAWSCA member.

(b) For the purpose of assisting in the repayment of any existing capital assets, if those assets were designed and intended in whole or in part to furnish water to BAWSCA members, whether those assets were carried out jointly by the agency and other local public agencies, or solely by those other public agencies.

(c) To make a prepayment, as described in Section 81436.5, or an acquisition, as described in Section 81437.

(d) To pay the costs of issuance of the bonds and to fund reserve funds securing the bonds.

81438. (a) In addition to the authority granted in Section 81435, the agency may do all of the following:

(1) Impose reasonable rates, fees, and charges on BAWSCA members for any program or service provided or work performed by the agency.

(2) Impose rates, fees, and charges on BAWSCA members and any entity that subsequently serves a BAWSCA member's service area in an amount as shall be necessary, together with other available sources of funds, to pay debt service on any bonds issued by the agency for a use authorized by Section 81437.5 and to satisfy all other obligations of the agency related to these bonds, including, but not limited to, funding and maintaining reserve funds and complying with financial covenants.

(3) Distribute any amounts collected that are not needed for the purposes of this article to BAWSCA members.

(b) If requested by the agency, the City and County of San Francisco shall collect any rates, fees, and charges imposed by the agency pursuant to this section as a surcharge under the July 2009 Water Supply Agreement. These amounts shall be collected in a manner, and with remedies for nonpayment, specified in an agreement between the agency and the City and County of San Francisco.